

ACQUISITION / RELOCATION

Table of Contents

CHAPTER 5: ACQUISITION / RELOCATION	2
INTRODUCTION	2
APPLICABILITY	2
RELEVANT LAWS	2
ACQUISITION AND RELOCATION REQUIREMENTS	3
BASIC STEPS FOR ACQUIRING REAL PROPERTY	3
RECORDS	5
ATTACHMENTS	5
ATTACHMENT 5-1: CHAPTER ADM 92.20 RELOCATION FILE	6
ATTACHMENT 5-2: ACQUISITION/DISPOSITION REGISTER	8
ATTACHMENT 5-3: ACQUISITION/RELOCATION MONITORING FORM	9
ADDITIONAL NOTES: (optional)	13
ADDITIONAL NOTES (continued): (optional)	14

CHAPTER 5: ACQUISITION / RELOCATION

INTRODUCTION

Whenever federal funds are used in a project involving the acquisition, rehabilitation or demolition of real property, a Federal law known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) generally applies. The purpose of the relocation law is to justly compensate people who are displaced and must move their homes, farms, or businesses due to a publicly assisted project.

This chapter is intended to serve only as a general outline and reference source for UGLGs implementing an acquisition or relocation project. It is incumbent upon the UGLG to become familiar with the relevant laws; http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/affordablehousing/training/web/relocation/overview

APPLICABILITY

Real property acquisition requirements apply to all acquiring agencies vested with the authority of eminent domain. Publicly funded private buyers need only to advise the property owners that they do not hold the power of eminent domain and of the fair market value of the property being bought.

Relocation requirements may apply to any person or agency carrying out a publicly assisted project causing displacement including displacements resulting from arms length voluntary acquisitions.

RELEVANT LAWS

- Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970, as amended, effective April 2, 1989
- Section 104(d) of the Housing and Community Development Act of 1974 (Barney Frank)
- 49 CFR 24 by the Department of Transportation

- 24 CFR 570.488 by the Department of Housing and Urban Development
- Wisconsin Eminent Domain and Relocation Law, Chapter 32, Wis. Stats. and Chapter Adm 92, Wis. Admin. Code

ACQUISITION AND RELOCATION REQUIREMENTS

The UGLG must determine whether displacement and relocation benefits are applicable. Relocation benefits apply when a project receives public financial assistance and/or involves acquisition by an agency that is vested with eminent domain authority.

If a residential, business, or farm occupant must vacate the property, request written determination as to whether or not a Relocation Plan is required from the Department's Relocation Specialist. If required, a Relocation Plan must be submitted to and approved by the Department of Administration before property is acquired and prior to any displacing activity. For Relocation Plan materials, pamphlets, and technical help, contact the Relocation Specialist.

If the property being acquired will leave the owner with an uneconomic remnant, the offer to purchase must also be extended to the remnant.

UGLG must replace any low- and moderate-income (LMI) housing units that are being demolished or converted to another use as a part of the project. Please call the project representative or the Relocation Specialist for more advice if this is occurring.

BASIC STEPS FOR ACQUIRING REAL PROPERTY

1. Determine which properties are to be acquired.
2. If the project demolishes or converts a LMI dwelling to another use, you will need to comply with the one-for-one LMI dwelling replacement policy. Call your DOH project representative for further advice.
3. Write a Relocation Plan for DOA approval if displacement is to occur.

4. Give each property owner a Preliminary Acquisition Notice and a "landowner's rights" pamphlet if the agency is vested with eminent domain authority for the acquisition, even in a voluntary acquisition.
5. Give a "relocation rights" pamphlet to each person displaced from the dwelling, business, or farm. Also, give a "relocation rights" pamphlet to any person who must move personal property from the site. You will find the pamphlets at http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/relocation/publications

Regarding status as a displaced person, note the following:

- Generally, a legal resident or commercial tenant permanently displaced by the project is a "displaced person."
 - Generally, a legal owner-occupant of residential or commercial property is a "displaced person" if the acquiring agency is vested with eminent domain authority, even if the acquisition is voluntary.
 - You cannot avoid relocation responsibility by avoiding condemnation proceedings.
6. Select and contract with a Wisconsin Licensed Real Estate appraiser to complete an appropriate appraisal on the property. An appraisal is not required if the property is estimated to be worth \$10,000 or less or if the owner is donating the property and releases you from your obligation to do an appraisal.

A second licensed appraiser must make written review of the submitted appraisal to determine its accuracy.

Establish in writing a summary statement detailing how the amount of just compensation to the property owner was derived and a description of the property.

7. Make an offer to purchase for the amount of established "just compensation". Deliver the summary statement determining just compensation at the same time as the offer to purchase. The UGLG may not pay less than the reviewed appraisal. The date of the offer to purchase (initiation of negotiations) begins the displacement.
8. Negotiate the property acquisition including an explanation of tenant-owner improvements (24.105), incidental transfer expenses (24.106), and condemnation litigation expenses (24.107).
9. If negotiations fail, the UGLG may pursue an Administrative Settlement (24.102 (i)) up to 125% of the amount of just compensation but, does not exceed \$5,000 above just compensation. DOH approval is required for any settlement that exceeds \$5,000 above just compensation.

EXAMPLE 1: Just compensation = \$5,000. Maximum allowable offer not requiring Department approval is \$6,250 ($\$5,000 \times 125\%$) because the difference (\$1,250) is less than \$5,000.

EXAMPLE 2: Just compensation = \$45,000. 125% of \$45,000 = \$56,250. The difference is \$11,250 and it exceeds \$5,000 limit. Maximum allowable offer not requiring Department approval is \$50,000.

If negotiations fail, proceed to Wisconsin State Statute Chapter 32 if condemnation is necessary for the project to proceed. Please contact your Project Representative for more details.

RECORDS

Property acquisition and relocation records shall be available for inspection by the department, and any person as specified under the Wisconsin Open Records Law, ss. 19.31 to 19.39, Stats. The Attachment 5-1 specifies content of the files per Wisconsin Administrative Code Chapter 92.

The Grantee should review the Attachment 5-1 and Attachment 5-3 to gather more information related to necessary documentation and evidence of compliance.

ATTACHMENTS

The Attachments (i.e. additional example documents) are included on the following pages.

ATTACHMENT 5-1: CHAPTER ADM 92.20 RELOCATION FILE

An agency shall maintain a current individual property acquisition and individual relocation case file. The file shall be retained for inspection by the department for a minimum of three years following completion of a project or a final relocation payment, whichever is later.

(1) PROPERTY ACQUISITION FILE SHALL CONTAIN:

- a. The name and address of a property owner and the address or other legal description of an acquired property;
- b. Evidence that the property owner was given a pamphlet entitled, "Your Rights as a Landowner under Wisconsin Eminent Domain Law," and the date given;
- c. A copy of written notices under this chapter or otherwise given to a displaced person;
- d. A copy of appraisal reports or documents on which a determination of just compensation is based;
- e. A copy of the written offer to purchase and the date of initiation of negotiations to acquire a property;
- f. A copy of a purchase agreement, deed, declaration of taking, waiver or related document involving conveyance of the property;
- g. Evidence that a property owner was paid for the purchase price and expenses incurred incidental to transfer of the property as specified under s. 32.195, Stats.

(2) INDIVIDUAL RELOCATION CASE FILE SHALL CONTAIN:

- a. Any information obtained in the initial interview;
- b. Name, on-site address and phone number, date of displacement, replacement address and phone number; and if a tenant or an owner, before and after relocation;
- c. The age and sex of dependent household members, the average monthly income of adult household members and the monthly housing cost of an acquired and replacement dwelling;
- d. A description of the business or farm operation being conducted, whether a displaced person relocated or discontinued, and the average monthly cost of the acquired and replacement facilities;

- e. A description of a dwelling, habitable space, number of rooms and bedrooms, and the type of construction;
- f. A description of relocation needs and preferences;
- g. Evidence that a displaced person received a pamphlet entitled, "Wisconsin Relocation Rights," and the date received;
- h. A copy of a written notice as specified under this chapter or otherwise given to a displaced person;
- i. Relocation service and assistance provided and the date;
- (i) Referral to a replacement dwelling, business, or farm operation, including the date, address, and sale or rental price;
- j. A copy of an occupancy agreement for the period after acquisition;
- k. A copy of a replacement property inspection document shall include the inspection date, description of a property, and its condition;
- l. Type and amount of each relocation payment made;
- m. A copy of a relocation claim, supporting documentation, and related documents for determining eligibility for or an amount of a payment, evidence of payment, and correspondence relating to a claim;
- n. A copy of an appeal and an explanation of the action taken to resolve the appeal, and the final determination;
- o. A copy of individual relocation case reports or other correspondence with the department; and
- p. The agency representative who provided the relocation assistance.

ATTACHMENT 5-2: ACQUISITION/DISPOSITION REGISTER

ACQUISITION/DISPOSITION REGISTER						
FUNDING	ITEM DESCRIPTION	IDENTIFICATION NUMBER	DATE ACQUIRED	CONDITION	DISPOSITION AMOUNT & DATE	YEARLY INVENTORY
CDBG	Real Property					
	Personal Property					
	Non-Expendable \$500					
	Expendable item					

PRINT NAME

SIGNATURE

DATE

ATTACHMENT 5-3: ACQUISITION/RELOCATION MONITORING FORM

ACQUISITION/RELOCATION MONITORING FORM

GRANTEE / GRANT AGREEMENT NUMBER:

Acquired Property Address:

Reviewer / Date:

Is Relocation (Temporary or Permanent) Involved?

Purpose of Relocation:

Property Use:

Single Family Residential

Multi Family Residential

Commercial

Industrial

Other

Occupants:

Seller's Name / Current Address / Phone:

Tenant's Name / Current Address / Phone:

SIGNIFICANT DATES:

Date

Official determination to acquire

(usually execution of grant agreement or amendment, or Committee approval for purchase of this property)

Notice of Intent to Acquire/Preliminary Acquisition Notice

Notice of Land Acquisition Procedures (brochure) given to owner

(WI Relocation Rights and/or Rights of Landowners Under WI Eminent Domain Law and Your Relocation Rights)

Appraisal Conducted

CDBG-PF Implementation Handbook

Review Appraisal Conducted

Initiation of Negotiations (start date of displacement process if relocation applies)
(initial written offer to purchase provided w/ Summary Statement of Just Compensation)
Owner accepted offer

Condemnation proceeding instituted (if applicable)

Estimated just compensation deposited with court (condemnation only)

Final firm Grant Agreement entered (all parties)

Grantee takes title

90 day Notice to Vacate Property delivered

Significant Dollar Amounts

	Date	Amount
First Appraisal		

Second Appraisal

Third Appraisal

Review Appraisal

Just Compensation

Initial Written Offer

Acquisition Price

Appraisal Review

Yes

No

Are the data contained in the appraisals adequate to
determine fair market value?

Are the analyses of the data in the appraisals reasonable?
Do the appraisals disregard the influence of the project
on the fair market value of the property?

Is the amount determined to be just compensation an
acceptable conclusion of the fair market value of the property?
Are the appraisals of fair market value and determination of
just compensation acceptable for each tenant-owned improvement?

COMMENTS:

General Findings

Yes

No

Did the Grantee provide the owner an adequate Notice of Land Acquisition Procedures brochure in advance of initiating negotiations?

Was the owner invited to accompany all of the appraisers on their inspection of the property?

Was the amount determined for Just Compensation the same or more than the grantee's approved appraisal of the fair market value of the property?

Prior to any bargaining, did the grantee furnish the owner with a firm offer to purchase, stating all basic terms and conditions, at the full just compensation amount?

Did the grantee provide the owner a Statement of the Basis for the Determination of Just Compensation at the time the owner was given the written offer to purchase?

Did the owner receive the amount determined to be just compensation?

Does it appear that the grantee generally carried out the acquisition process in a manner that minimized hardships to the owner and was consistent with its treatment with other owners?

COMMENTS:

Reviewer/ Date

RELOCATION MONITORING CHECKLIST

GRANTEE / GRANT AGREEMENT NUMBER:

Reviewer / Date:

Purpose of Relocation:

Is Relocation Temporary or Permanent?

Project Household Name:

Property Address:

Telephone Number:

Number of People in Family Affected by the Relocation:

Does the file contain age and sex of dependent family members?

Average monthly income:

Average Monthly Housing Cost of Acquired/Replacement Dwelling:

If a farm or business operation, does file contain a description?

If a farm or business operation, is displaced person going to relocate or discontinue?

Average Monthly Cost of Acquired/Replacement Facilities:

Does the file contain a description of the dwelling, habitable space, # of rooms/bedrooms and type of construction?

Does the file contain a description of relocations needs and preferences?

Evidence displaced person received "Wisconsin Relocation Rights", date received

Copy of the written Preliminary Acquisition Notice:

Description of relocation services provided:

Referral to replacement dwelling, business or farm operation, including date, address and sale/rental price.

Copy of the occupancy agreement:

Copy of the replacement property inspection report with dates, description of property and condition:

Payment made to Project Household for Lodging

Copy of the claim, documentation and related documents:

Amount of Payment \$

Payment made to Project Household for Meals

Copy of the claim, documentation and related documents:

Amount of Payment \$

Payment made to Project Household for increased Transportation Costs

Copy of the claim, documentation and related documents:

Amount of Payment \$

Payment made to Project Household for Laundry Facilities

Copy of the claim, documentation and related documents:

Amount of Payment \$

Written Acknowledgment from Project Household of receipt of total relocation payment

Copy of appeal and explanation of any action taken to resolve and final determination

Copy of individual case reports or other correspondence with the department:

Name of agency representation who provided relocation assistance:

Notice of Temporary Relocation

Moved Out

Replacement Address:

Telephone Number:

Moved Back

ADDITIONAL NOTES: (optional)

ADDITIONAL NOTES (continued): (optional)